

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

BANCORPSOUTH BANK,

Plaintiff(s),

vs.

RWM PROPERTIES II, LLC, et al.,

Defendant(s).

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Case No. 4:11CV373 JCH

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Petition for Attorneys' Fees and Costs, filed on January 3, 2013. ("Fees Motion," ECF No. 95). By way of background, on November 16, 2012, Plaintiff filed a Motion to Hold Judgment Debtors In Contempt and Motion to Enjoin Transfers of Assets and Preclude Document Destruction, claiming Defendants failed to comply with court-ordered discovery response deadlines and engaged in repeated delay tactics. ("Contempt Motion," ECF No. 81).

On December 13, 2012, the Court granted Plaintiff's Contempt Motion and ordered Defendant Ronald Moore and his former attorneys Michael Daming, Nicholas Klumb, and David Wasinger to pay Plaintiff "reasonable attorneys' fees and costs...for the expense in preparing all of the pleadings, motions, briefs, and other documents Plaintiff has filed regarding Plaintiff's post-judgment discovery beginning with the work on Plaintiff's motion to compel filed on June 19, 2012...." (Order, ECF No. 91, p. 2, ¶ D). The Court found Mr. Daming jointly liable for such fees and costs up to the date of his withdrawal as counsel on October 15, 2012, and Mr. Klumb and Mr. Wasinger jointly liable for such fees and costs up to the date of their withdrawal as counsel on

November 21, 2012. (Id.). Plaintiff was given twenty-one days from the date of the Order to submit evidence to support its fees, hourly rates, and expenses. (Id.).

In accordance with this Court's Order, Plaintiff filed its Fees Motion on January 3, 2013. Plaintiff requests \$51,638.00 for attorneys' fees¹ and \$19.32 for costs incurred in connection with Plaintiff's efforts to obtain post-judgment discovery responses from Defendants in this case. Plaintiff includes detailed listings of the work performed by Plaintiff's counsel and the costs incurred by Plaintiff. Included in Plaintiff's fee request is \$12,695.50 for time spent preparing Plaintiff's fee request, which Plaintiff refers to as "fees on fees" time.²

Upon consideration of the parties' submissions, and in light of the Court's contempt order, the Court will grant Plaintiff's request in part and deny Plaintiff's request in part. The Court will award Plaintiff \$38,942.50 in attorneys' fees for work performed from the preparation of the motion to compel filed on June 19, 2012, through the date of the Order and \$19.32 for costs.³ The Court finds Plaintiff's "fees on fees" request for \$12,695.50 is unreasonable, however, as time spent computing the total amount sought for Plaintiff's attorneys' fees is more appropriately charged under a paralegal rate. The Court will award Plaintiff \$6,570.00 for "fees on fees" time, which represents the total "fees on fees" time (43.8 hours) charged at the paralegal rate of \$150 per hour.

¹Plaintiff originally requested a total fee amount of \$75,828.50. After Defendants' former counsel and Defendants objected to \$24,190.50 of the fee request, Plaintiff withdrew its request for that amount. Therefore, Plaintiff's current total fee request is \$51,638.00.

²Plaintiff asserts a total of 43.8 hours were spent preparing Plaintiff's fee request, with three attorneys and two paralegals performing work on the fee request. The three attorneys had individual billing rates of \$405, \$350, and \$250 per hour while the paralegals had individual billing rates of \$150 and \$130 per hour.

³ The Court finds the lodestar amount, defined as the product of the number of hours reasonably expended on the litigation and a reasonable hourly rate, to be reasonable here with regards to the non-"fees on fees" work performed by Plaintiff's attorneys. See Copeland v. ABB, Inc., 2006 WL 2356140 at *1 (W.D. Mo. Aug. 15, 2006) (citing Hensley v. Eckerhart, 461 U.S. 424, 433 (1983)).

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Petition for Attorneys' Fees and Costs (ECF No. 95) is **GRANTED** in part and **DENIED** in part, and Plaintiff is awarded \$45,512.50 for attorney's fees and \$19.32 for costs.

IT IS FURTHER ORDERED that Michael Daming is jointly liable for such fees and costs incurred up to the date of his withdrawal as counsel on October 15, 2012, that Nicholas Klumb and David Wasinger are jointly liable for such fees and costs incurred up to the date of their withdrawal as counsel on November 21, 2012, and that Defendant Ronald Moore is liable for such fees and costs incurred up to the date of the Order on December 13, 2012.

Dated this 18th day of April, 2013.

/s/Jean C. Hamilton

UNITED STATES DISTRICT JUDGE